

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO ALL
CLASS ACTIONS

Judge Patti B. Saris

PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL

Plaintiffs, by their attorneys, respectfully move this Court for a leave to file Plaintiffs’
Memorandum In Support of Their Motion For Sanctions Based on Defendants’ Submittal of Sur-
Reply Declaration of Steven J. Young under seal.

Throughout Plaintiffs' memorandum are documents and excerpts that have been identified by certain Defendants as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order. If the documents themselves are not quoted information derived from them is, which under the terms of the Protective Order requires that those portions be sealed. The materials not only quote extensively and/or attach such documents, but also include references to pricing data that defendants and third parties no doubt believe to be highly proprietary in nature. Paragraph 15 of the Protective Order mandates that any document or pleading containing such information be filed under seal. Plaintiffs hereby comply with the terms of the Protective Order. At this time, Plaintiffs' take no position as to whether the information so designated by defendants is in fact "CONFIDENTIAL" or HIGHLY

CONFIDENTIAL and explicitly reserve their right to challenge such designations in accordance with the terms of the Protective Order. Plaintiffs have no doubt however that to comply with the terms of the protective order these materials must be filed under seal.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file their Memorandum In Support of Their Motion For Sanctions Based on Defendants' Submittal of Sur-Reply Declaration of Steven J. Young under seal, and all other relief that this Court deems just and proper.

DATED: March 14, 2005

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CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL** to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on March 14, 2005, a copy to Verilaw Technologies for Posting and notification to all parties

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